

Law (Genl.) (1934) Department.

Ins. SERIES.

G.O. No. 2329

DATED 13-8-1934.

[Despatch Abstract.]

History

Scandals tickets - Scandling by persons who sell tickets -
Investigation by the Police - South Kanara
District - Orders passed.

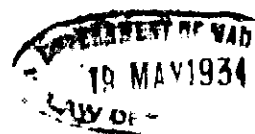
Refc, 2168-4-34

South Kanara Dt. Magistrate's Office,
Mangalore, dated 15th May 1934.

Handl: 2132 A
21.5.34

From

E. M. Gawne, Esq, I.C.S.,
Dt. Magistrate, South Kanara.



To

The Secretary to Government,
Law (General) Department,
Madras.

Sir,

Lotteries--Sweepstake tickets Derby and Dublin--advertisement--
prosecution--orders of Government--solicited.

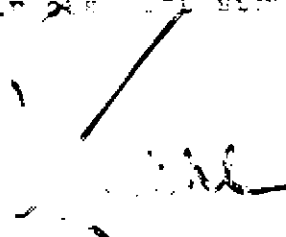
The District Superintendent of Police, South Kanara, has brought to my notice that there have been of late several cases in this District in which persons sold Irish Free State Hospitals' Sweepstake tickets and tickets of other lotteries of Great Britain and Ireland *and European countries* and swindled the purchasers by not remitting the sale proceeds. The cases discovered by him relate mostly to such sales by persons of South Kanara to persons living in Mysore State.

2. The question of prosecution of the persons who live by swindling the purchasers of such tickets has, however, presented difficulties. On the one hand, the result of lending the authority of the Police and of criminal courts to help purchasers to punish the swindlers would be to encourage lotteries in an indirect way. Such a course might not only be bad from the point of view of public policy but might also be held illegal, as amounting to enforcement of illegal contracts. I invite a reference to A.I.R. 1927 M. 425. *Not found* to investigate and prosecute such cases ~~has~~ on the other hand, encouraged the swindlers who know that their victims will never go to the expense of a prosecution in a distant court.

3. I am myself against the police taking up these cases. The District Superintendent of Police is of opinion that the police should take up the cases. I, therefore, request that Government should be

pleased to decide whether the cases should be investigated and prosecuted by the Police or not.

4. I also desire to invite attention of Government in this connection to the contents of the enclosed notice advertising the Lucky Sweepstake which was published in the Press of 5th Nov 1934. This publication seems to me to bring the Agent of the Great Eastern Trust Ltd. within the scope of the provisions of Section 404 I. II. It seems to me that it is not desirable that I should ask the Police to hunt out and prosecute petty offenders here, while advertisement is allowed on this large scale in the Press Daily of London.

Yours faithfully,

Director.

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SWEEP STAKE TICKETS

I.F.S. HOSPITALS' TRUST LTD.

DERBY

Price per Ticket

10 s. or Rs. 6-12.

Closing Date for CABLE transmission 12-5-'34.

MUTUAL CLUB INC.

DERBY

Price per Ticket

6 s. or Rs. 4.

Closing Date for POSTAL transmission 9-5-'34.

N. P. 1 Three annas extra if tickets are required by Regd. Post.

2. Bonafide sellers will be entitled to the usual concession rates.

AUTHORISED AGENT:—

T. KANDASWAMY,

TOURIST AGENCY,
GOBICHETTIPALAYAM, S.L.

BRANCH OFFICE:—

TOURIST AGENCY,

OPPOSITE TO
HIGH COURT, MADRAS.

Telephone: 3567.

Post Box 159.

Telegrams: "Touragency."

Hindu May 7th 1934

11/14/6

Cro 2132A Memo.No. 2132A-1 314.6.34

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Tub.

Lotteries - Sweepstakes - Misappropriation by sellers of tickets - Investigation by the Police. Refce. his letter No.C.2168-M-34 d. 15-5-1934

The D.M. South Kanara is requested to consult the local Public Prosecutor on the legal aspect of the cases ^{referred to in para 1 of his letter} and forward his opinion to Government.

RD
5.6.34
cm
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RD
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cm
12/6/34

To the D.M.South Kanara.

RD
5.6.34

Ref. C--1--2168--M--34.

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Lg. 2251 H
3-7-34

South Kanara District Magistrate's Office
Mangalore, dated 27th June 1934.

From

E. M. Gawne, Esq, I.C.S.,
District Magistrate,
South Kanara.

To

The Secretary to Government,
Law (General) Department,
Madras.

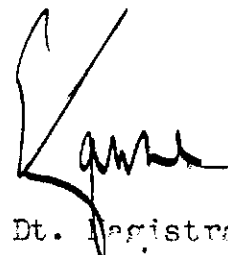
Sir,

Lotteries--Sweepstakes--Misappropriation by sellers of
tickets- Investigation by police.

Ref:- Government Memo No. 2132 A--1 dated 14th June
1934.

I submit herewith a copy of the opinion of the local Public
Prosecutor.

Your obedient servant,


Dt. Magistrate.

Copy of letter No. C--11/34 Cr1. dated 25th June 1934, from
the Government Pleader and Public Prosecutor, Mangalore, to the Dis-
trict Magistrate, South Kanara, Mangalore.

Lotteries --Sweepstakes --Misappropriation by sellers of tickets

Your Ref:- dated 19th June 1934.

The questions referred to me are (1) whether the prosecution

reason, neither is it illegal to visit a brothel.

6 But all these acts, including the purchase of a lottery ticket, are not correct acts on moral considerations and grounds of public policy. They are wrongs but legally they are legitimate acts and when a person is wronged in the commission of these wrongs or a wrong is done to him in connection with these wrongs he is entitled to the protection of the law, same as any other subject. One cannot administer a beating to another for drinking illicit liquor, nor to a person who visits a brothel, nor could a man be robbed as a consequence of a visit to a brothel, however laudable his intentions might be from a moral stand-point.

7 I am of opinion that a purchaser of a lottery ticket who is swindled is entitled to the protection of the police and of the criminal courts. I am also of opinion that the police and criminal courts cannot legally refuse to entertain such complaints. M

8 I am further of opinion that public policy demands that swindlers of this class should be punished more severely, as, unlike other offenders, these exploit the most ordinary human weakness and also because their conviction will put down the evil more effectively than by denying the protection to the purchasers of a lottery ticket.

True copy

L. J. M.

Lotteries - Sweepstakes - Misappropriation by
sellers of tickets - Investigation by the
Police.

PH-204 From the D.M.S. Kanara Ref.No.C-2168-M.34 dated 15-5-34.

The D.M. South Kanara, has submitted for the orders of Government the general question of prosecution of persons in this Presidency who sell tickets for foreign sweepstakes and lotteries and swindle the purchasers by not remitting the sale proceeds. The D.M. is against the police taking up these cases, while the D.S.P. takes the contrary view. The D.M. therefore asks the Government to decide whether the cases should be investigated by the police or not.

2. The Government never sanction the holding of a lottery and at the same time, they do not prosecute the organisers of every lottery. Government will take action only in cases where fraud is disclosed and there is a prima facie case for prosecution. The fraud in most cases is either cheating or misappropriation. The Govt. sanction is required for, and given only, to the prosecution for offences under section 294-A, I.P.C. ~~only~~. If the circumstances of the case disclose that there is sufficient evidence for prosecution under cheating (section 420/I.P.C) etc, the prosecution launched ^{ad} could not be confined to an offence under section 294 I.P.C, but should include also the graver offence of cheating etc., (section 420 I.P.C).

3. On the legal position in the cases in question, the D.M. invites a reference to the decision in ¹⁹²⁷ A.I.R. Madras 425. This decision presents some difficulty in dealing with persons who sell sweep-stake tickets and do not remit the money to the organisers of those sweeps. While the D.M. considers that refusal to investigate and

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25-5-34

prosecute cases of swindling, will encourage the sellers of tickets to continue the fraud, he is not fit for investigation and prosecution, on the ground that such action might be bad from the point of view of public policy and might also be held illegal as amounting to enforcement of illegal contracts.

4. Before the question is pursued further, the D.M. may, it is submitted, be asked to consult the Public Prosecutor on the legal aspect of the case and to forward his opinion to Government. Draft memo. submitted. 182

5. Attention is also invited to the advertisement of Mr. Kandaswami of Gobichettipalayam on page 3 c.f. and para. 4 of D.M.'s letter on page 2 c.f. The advertisement is similar to the one at page 5 of G.O.No.137 L.A. (Genl) dated 10-1-1934, and the opinion of the Advocate General at page 8 of the same G.O. shows that nothing can be done against the advertiser or the Editor of the Hindu in respect of the advertisement. The fact that such advertisements are allowed to appear is not however sufficient ground to deter Government from interfering when, otherwise, their interference is called for. The D.M.'s view in para. 4 at page 2 c.f. does not therefore seem tenable or acceptable. [X] 182

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[Issued as memo no. 2132A-1 dt 14.6.34 with Dm. - p 4 c.f.
Sanku Ramana]

From the Dm. Sanku Ramana Ref No C-1-2162 M.34 - p 5 c.f.
dt 27.6.34.

~~Notice of the proposed to be held by the~~
~~Government of Madras to be held by the~~
~~Government of Madras to be held by the~~

The Public Prosecutor, Sanku Ramana is of the opinion that a purchaser of a lottery ticket who is involved is entitled to the protection of the Police and of the Criminal Courts, and that the

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Police and Criminal Court cannot legally refuse to entertain such complaints. In the circumstances the D.M. may be informed that there is no objection to the Police investigating and magistrates taking Cognizance of Complaints of swindling by persons who sell sweepstake tickets.

In para 4 app 2 of the D.M. has referred to certain advertisements appearing in the Union. a copy of which has been forwarded by the D.M. - vide p 3 of. In the last sentence ~~of the advertisement~~ he appears to remark ^{about} the wisdom of Govt regarding advertisements for the sale of sweep stake tickets. He ought to be ~~and~~ aware of the instructions in

- (M) G.O. no 222 Law(Genl) of 22-2-32 and the opinion of
 - (T) the Advocate-General in G.O. no 3268 Law(Genl) of 5-9-32.
- His remarks are not therefore understood. His attention may however be drawn to those G.Os.

Draft submitted.

LCB
20.7.34
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Ret/7

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Removes

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The opinion of the Adv: Genl. at p 8 of (U) is more definite than that in G.O. no 3268 of 5/9/32. Copy of that opinion may also be sent to the D.M. S.K.

Was there not an opinion of Mr Venkataramana Rao as Adv: Genl. to the same effect, in which the authorities

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were all reviewed? Please let me see it

WV
4/8/34

Mr Venkatarammanna Rao's opinion is at page

34-36 of G.O. 2180 (Law Genl) dt 26.6.33.

WV
5.8.34
With reference to para 1 of the draft, with the pencil addition made to paragraph 3 of the draft for approval.

Appd. 10/8/34

WV
2.8.34
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WV
9/8 The draft is for approval.

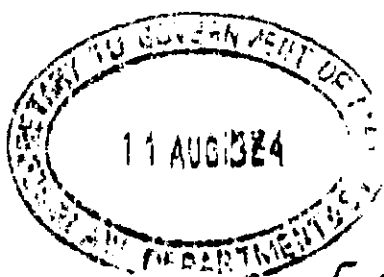
WV
10/8/34

A

Neither the sale nor the petition of success billable seems to be criminal - what under the existing law. What is criminal is the sale of such billable, without any intention of securing the sale money to the success holder, & the actual misappropriation of the sale money. The draft is approved. (Init.) fail to see why the Police cannot take charge of such cases & prosecute the vendors for offences under Cr. Misappropriation clause of Theft & Cheating.

W. Reddy

11.8.34.



WV-9CF [Issued as G.O. 2329 (Law Genl) dt 13.8.34]

12/18

12/18

C.F. 16.

DRAFT FOR APPROVAL.

Law (Gen) Dept

Date. Initials.

SUBJECT:—

When received for fair copying ..

When copied ..

When examined ..

When signed ..

When despatched ..

Lottery

Sweep stake tickets. Swindling by persons who sell tickets - Prosecution - Investigation by the Police - South Kanara Dist - orders passed.

READ AGAIN .., dated .. 19 ..

READ ALSO:—

No. 2132A From the D.M. South Kanara. Ref. No. G-2168M 348/15.5. 1934.

20th D.M. South Kanara. Memo No. 2132A-18/14-6.34.

2757A From the D.M. South Kanara. Ref. No. C-1-2168M 348/27.6.34

Order No. 2329 dated 13-8-1934

Res. Secy. H.S.

h1 cf

M up. 7cf

The D.M. South Kanara submits for the orders of Govt. the general question of the prosecution of persons in this Presidency who sell tickets for foreign Sweepstakes and lotteries and swindle the purchasers by not remitting the sale proceeds to the organisers of the Sweeps and lotteries.

The Public Prosecutor, South Kanara is of the opinion that a purchaser of a lottery ticket who is swindled is entitled to the protection of the Police and of the Criminal Courts and that they cannot legally refuse to entertain such complaints. The Govt. agree with

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the opinion of the Public Prosecutor. The
D.M. South Kanara is informed that there
is no objection to the police investigating
and magistrates taking cognisance of
complaints of the nature referred to above.

Dpd. by	
Dpr's initials	
Date	193

~~10/15~~ 3 ^{regard} ~~with reference to the advertise-~~
~~ment~~ ^{about} sale of sweepstakes
tickets referred to in paragraph

For D.M. South Kanara 9/10.
Copy to the Sg. of P.M. (a/o.)
~~copy to the Sg. of P.M.~~

4 of his letter the D.M.'s attention
is invited to Gono 222 dated 21-1-32
& Gono 3268 dated 5.9.32.

(M)
(T)

10/15
20.7.34
(8)
10/15

AB
recd

10/15
10/8/34

A copy of the
opinion of the Advocate Genl. No 30
3.1.34 is also forwarded to the
D.M. for information